THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.6608/2006

-

1. Ch. V. Balakrishna Rao and others ..Petitioners

V.

1. The Government of Andhra Pradesh represented by its Principal Secretary, Agriculture and Co-operation Department, Secretariat Building, Hyderabad and others. ..Respondents

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.6608/2006

ORAL ORDER

By means of filing this writ petition invoking the extra-ordinary jurisdiction of this court under Art. 226 of the Constitution, the petitioners assail the correctness of the order passed by the first respondent in Memo No.3349/Coop.VII/2006-1 dt. 10-3-2006.

By the impugned order dt. 10-3-2006, the first respondent while entertaining revision petition filed by the President of Krishna Zilla Parishad Employees Coop. Credit Society Limited, Chilakalapudi (for short "the Society") and six Managing Committee Members of the Society against the orders passed by the second respondent, Deputy Registrar of Coop. Societies, Machilipatnam dt. 2-3-6003 in exercise of powers conferred on him under Sections 21-A and 32 of the A.P. Co-operative Societies Act, 1964,whereunder he declared that the members of the Society shall cease to be the members of the committee, for the reasons mentioned therein, granted stay of operation of the orders of the second respondent dt. 2-3-2006.

A short question that arises for consideration in the present writ petition is whether revision as such is maintainable against the orders passed by the Deputy Registrar of Co-operative Societies disqualifying the members of the Managing Committee of the Society and ceased to be so under Section 21-A and 32 of the Act for the reason that they failed to convene the general body meeting in accordance with the provisions of sub-section (1) of Section 32 of the Act and incurred disqualification to continue as such under sub-section (1) (b) of Section 21-A of the Act.

Heard the learned counsel for the petitioner, learned Government

Pleader for respondents 1 and 2 and Sri C. Raghu, learned counsel for R-3.

After giving intimation of disqualification of the members Managing Committee of the Society, the second respondent by his proceedings RC No.1555/2005/E dt. 3-3-2006 exercising powers conferred on him under Section 32(7)(a) of the Act appointed the Assistant Registrar/Superintendent, Office of the Divisional Co-operative Officer, Machilipatnam as Part-time Person-in-charge to the Society for a period of six months from the date of assumption of charge or till the elections to the Managing Committee of the Society are held or until further orders issued whichever is earlier.

It is not in dispute against any order passed under Section 21-A and 32(3) of the Act, appeal under Section 76 lies to the Co-operative Tribunal constituted under Section 75 of the Act. Section 77 is the crucial provision, which confers revision upon the Registrar/Government as the case may be, which reads as under:

> "77.REVISION:- (1) The Registrar may of his own motion or on application made to him, call for and examine the record of any officer subordinate to him and the Government may of their own motion or on application made to them, call for and examine the record of the Registrar, in respect of any proceeding not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of Section 76 to satisfy himself or themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision passed or order made therein; and if in any case, it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly: ……"

A plain reading of Section 77 as referred to above would make it crystal clear that the Registrar/Government may of his/its own motion or on application made to him/it, call for and examine the record in respect of any proceeding but not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of Section 76. In view of the

same, against the impugned order, only appeal lies to the Tribunal but not revision to the Government. Thus, it is obvious, exercising revisional jurisdiction by the Government under Section 77 of the Act is without jurisdiction. Therefore, the Government committed manifest illegality in passing the impugned order exercising revisional jurisdiction in view of statutory bar contained under Section 77 of the Act and the same cannot be sustainable.

The writ petition is accordingly allowed and the impugned order passed dt. 10-3-2006 by the first respondent is set-aside. However, the parties are at liberty to avail the remedies as are available under the Act. No costs.

Kmr 4-4-2006